

NOTICE OF INTENT

Department of State Secretary of State

Address Confidentiality Program (LAC 4:XIX.Chapter 1)

Under the provisions of R.S. 44:52(A)(2), R.S. 36:742, and the Administrative Procedure Act (R.S. 49:950 et seq.), the Secretary of State hereby gives notice of his intent to establish guidelines for the Address Confidentiality Program.

Title 4 ADMINISTRATION Part XIX. Secretary of State

Chapter 1. Address Confidentiality Program

§101. Summary of Program

A. The Address Confidentiality Program (ACP) provides relocated victims of abuse, sexual assault, or stalking with a substitute address to use in place of their actual address when they apply for or receive state or local government services (e.g., driver's license, voter registration, public school records, etc.). The goal of the program is to prevent an assailant or potential assailant from finding the location of a victim through the state's public records. The program is not a witness protection program and does not assist participants in obtaining new names, Social Security numbers, or in relocating them to a new residence. The ACP does not provide legal advice to the participant.

B. The ACP acts as the agent of an ACP participant for purposes of service of process and forwards all first-class, certified, or registered mail to the participant.

C. The ACP works with state and local government agencies to ensure compliance of ACP legislation and to facilitate the use of the substitute address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:56 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

§103. Eligibility Requirements

A. Any person attempting to escape from actual or threatened abuse, sexual assault, or stalking can apply for participation in the ACP. To participate in the program, a victim must meet the following criteria:

1. be a victim of abuse, sexual assault, or stalking;
2. be concerned for the safety of self, children, or household members;
3. be a resident of Louisiana;
4. relocate or plan to relocate to an address unknown to his/her abuser;
5. not have made any public record in new location (i.e., telephone number, utilities, driver's license, etc.);
6. live in a residence that the victim does not own (The ACP cannot protect victims if a house has been purchased in their name.);

7. be 18 years of age or older; or
8. be a parent or guardian acting on behalf of a minor; or
9. be a parent or guardian acting on behalf of an incapacitated individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

§107. ACP Process

A. A victim of abuse, sexual assault, or stalking moves to a new location (in Louisiana) that is unknown to his/her abuser, and a public record of the new address has not been created (i.e., telephone number, driver's license, utilities, etc.).

B. The victim calls the ACP and is referred to an agency with a certified ACP Application Assistant.

C. The victim meets with an ACP Application Assistant to apply for participation in the ACP.

D. The ACP Application Assistant sends the application to the ACP.

E. The ACP reviews the information on the application and if all conditions have been met, the victim is certified as a program participant.

F. The new participant is assigned an ACP code, and an ACP authorization card is issued for each member of the household.

G. The program participant (and co-participants) can now apply for state and local government services using the substitute address as his/her legal address.

H. The ACP forwards all first-class, certified, and registered mail to the program participant's actual mailing address.

I. The program participant's actual residential address and telephone number are not public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:56, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

§109. Definition of a Participant and Co-Participant(s)

A. A victim becomes an ACP participant after he/she meets the criteria set forth by the ACP legislation. A co-participant is a household member (i.e., child, spouse, sister, etc.) who lives with the participant and is listed on the ACP application. Household members are not required to be in the ACP; however, it is strongly advised that they be a part of the ACP as it is important for everyone in the household to use the substitute address.

B. The participant and co-participants share the same ACP code and the same substitute address. The participant and co-participants are afforded the same legal protections of the ACP and must agree to abide by the same rules and guidelines of participation in the ACP.

C. Once the participant has completed the proper application form, the secretary of state shall certify the applicant as a program participant which certification shall be valid for four years following the date of filing unless the certification is cancelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:56 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

§111. Substitute Address

A. The substitute address assigned to participants has no relationship to participants' actual address and all participants use the same address.

B. The substitute address can be used as the participant's residential, school, and work address. The address should always be used when applying for state and local government services. Private companies are not required to accept the substitute address; however, upon request, many companies use the substitute address. Program participants should also use the ACP address with work associates, friends, and family members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:54, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

§113. Authorization Card

A. Each applicant is asked to sign an ACP authorization card and the card of every co-applicant under the age of 18. Co-applicants that are 18 or older, sign their own authorization card. The ACP issues an ACP authorization card for each member of the household. Use of the substitute address may begin when participants receive their ACP authorization card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

§115. ACP Code

A. The ACP code is a specific number assigned to each participant and co-participant and is used to sort and distribute participant mail. Participants and co-participants in the same household share the same ACP code and all mail addressed to a participant should include this number. If the ACP code is not included as part of an address; delivery of a participant's mail can be delayed and in some cases, may be returned to the sender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

§117. Mail-Forwarding Service

A. The ACP provides first-class mail forwarding service to participants using the substitute address. All first-class, certified, and registered mail received at the substitute address is forwarded as first-class mail to the mailing address provided on the application by the participant. The ACP does not forward books, magazines, periodicals, packages, or junk mail. Packages are returned to the sender and junk mail or magazines are

discarded. Program participants can expect their mail to be delayed 5 to 10 days as all mail is forwarded from a Baton Rouge address. The ACP does not track or maintain records of any mail received on behalf of the program participants unless the mail is certified or registered.

B. Participants are asked to directly communicate with all their business/personal contacts to inform them of the substitute address they will be using as their mailing address and the address for public record. Participants are asked not to submit a change of address form to the U.S. Postal Service as this can cause confusion for the post office and can delay the participant's mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

§119. Voter Registration

A. A program participant may vote absentee by mail upon meeting the necessary requirements. The participant's substitute address shall be used for registration and voting and the participant's name and physical address shall not be included on any list of registered voters available to the public. A program participant shall not vote during early voting in-person or in-person at the polls on election day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

§121. Service of Process

A. A program participant designates the ACP as an agent for service of process and receipt of mail and legal documents. The ACP receipt of documents constitutes the participant's receipt of the documents. Participants cannot use the program to avoid legal action or to hide from legal responsibilities by refusing to accept mail forwarded by the ACP. Participants are legally responsible for obligations contained in all documents forwarded to them by the ACP. ACP will accelerate delivery (i.e., Fed Ex, UPS, etc.) on legal papers participants are served. All legal delays for service of citation or other process on a program participant shall be extended 10 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

§123. Disclosure of Records

A. The ACP is prohibited from disclosing the address or telephone number of a program participant except under the following circumstances.

1. The information is requested by a federal, state, or local law enforcement agency for official use only.
2. The information is required by direction of a court order.

3. The information is requested by an agency to verify the participation of a program participant when the verification is for official use only. ACP will give no additional information except to verify participation in the program.

B. The ACP will provide immediate notification of disclosure to program participants when disclosure is made under LAC 4:XIX.123.A.2 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

§125. Notification to Courts

A. If at the time of application, a program participant is subject to court order or is involved in a court action related to divorce proceedings, child support, child custody, or child visitation, the ACP shall notify the court that issued the order or the court having jurisdiction over the action, of the certification of the program participant in the ACP and of the substitute address designated by the Secretary of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

§127. State and Local Government Agency Exemption

A. A state or local government agency may request a waiver from the requirements of the ACP by submitting a waiver request. The waiver is an explanation of why the agency cannot meet its statutory or administrative obligations by using the ACP substitute address. If the ACP accepts the waiver, the agency will only use the participant's actual address for statutory or administrative purposes and will not be public record. Acceptance or denial of an agency's waiver request is not subject to further review.

B. Participants subject to the Sex Offender and Public Protection Registration Programs must disclose their actual residential address as required by the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

§129. Certification

A. Applicants are certified as participants for four years following the date of certification unless withdrawal or cancellation occurs before the expiration date. Participants can renew their certification if they still consider themselves at risk by completing another application with an ACP Application Assistant within 30 days prior to their expiration date. Upon the receipt and approval of a completed ACP application, the applicant will be on record as a certified program participant and will receive a welcome packet with more detailed information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:52(A)(2), R.S. 44:53, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Secretary of State, LR 34:

Family Impact Statement

The proposed Rule LAC 4:XIX Chapter 1 regarding the Address Confidentiality Program will have a foreseeable impact on the mother and any children as defined by R.S. 49:972D or on family formation, stability, and autonomy. Specifically, there should be a foreseeable effect on:

1. the stability of the family;
2. the functioning of the family;
3. the behavior and personal responsibility of children; and
4. the ability of the family or a local government to perform the function

as contained in the proposed Rule.

The proposed Rule LAC 4:XIX Chapter 1 regarding the Address Confidentiality Program does not have any known or foreseeable impact on any family as defined by R.S. 49:972D or on family formation, stability, and autonomy. Specifically, there should be no known or foreseeable effect on:

5. the authority and rights of parents regarding the education and supervision of their children; and
6. family earnings and family budget.

Interested persons may submit written comments to Angie Rogers LaPlace, Commissioner of Elections, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, March 25, 2008 at 10 a.m. in the State Archives Building, Auditorium, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the department to receive written comments is 4:30 p.m. on Wednesday, March 26, 2008 after the public hearing.

Jay Dardenne
Secretary of State